

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MICHAEL L. SHAKMAN, PAUL M. LURIE, )  
KENNETH AYERS, ANN M. KING, )  
INDEPENDENT VOTERS OF ILLINOIS- )  
INDEPENDENT PRECINCT )  
ORGANIZATION, MICHAEL SULLIVAN, )  
DARRYN JONES, STUART MAJERCZYK, )  
RICHARD GRAMAROSSA and CONNIE )  
GRAMAROSSA, et al., )

Plaintiffs, )

v. )

COUNTY OF COOK, et. al )  
Defendants. )

Case No. 69 C 2145  
Magistrate Judge Sidney Schenkier

**SEVENTH REPORT OF THE COMPLIANCE ADMINISTRATOR  
FOR COOK COUNTY**

Mary Robinson, *Shakman* Compliance Administrator for Cook County, by and through her attorney, Matthew Pryor, submits this Seventh Report pursuant to the order of the court entered November 30, 2006.

This report is presented pursuant to the terms of the Supplemental Relief Order entered on November 30, 2006 (the "SRO"), requiring that the *Shakman* Compliance Administrator ("CA") study the existing employment practices of Cook County Government (the "County"), monitor the County's compliance with the provisions of the SRO, assist in formulating a new hiring plan (the "Employment Plan," the "New Plan," or the "Plan"), assist in establishing training programs on non-political hiring practices, adjudicate claims based upon violations that preceded entry of the SRO, make recommendations to the Court

as to how to resolve issues regarding *Shakman* Exempt positions, and file an initial report and then semi-annual reports identifying activity by the CA and progress toward achieving substantial compliance with the requirements of the SRO.

### **SUMMARY**

In general, it must be said that the process of bringing the employment practices of the Cook County Offices Under the President ("UTP"), into substantial compliance with the terms of the SRO has been painfully slow. Prior reports detailed the difficulties encountered by the CA during the first four years of the effort. The County's engagement in the process ranged from casual interest to outright defiance. The CA dedicated more energy to investigating and exposing violations than to working with the County to develop practices that would prevent unlawful political discrimination.

Things have improved dramatically under the leadership of Cook County Board President Toni Preckwinkle. Most importantly, President Preckwinkle has sent the message that manipulations of hiring practices to steer jobs to political friends and supporters will not be tolerated. Upon taking office, the President terminated employees who had been instrumental in assisting prior administrations in defying political patronage prohibitions. Instances of blatant manipulation or defiance of appropriate practices have virtually disappeared, and the issues that are still encountered seem to have more to do with disorganization or inadequate training or staffing. Shortly after taking office, President Preckwinkle agreed to and implemented procedures for logging contacts by elected officials concerning employment matters and, unlike her predecessor, agreed that she herself should be bound by the policy. She then communicated her expectations that all County employees comply with the policy by including instructions for doing so with

paychecks. More recently, the President appointed a new Chief of the Bureau of Human Resources ("BHR"), Maureen O'Donnell, who promises to be both capable of and committed to upgrading the organization and performance of the BHR so as to be able to effectively and consistently perform its functions without illegal political influence. Effective October 6, 2011, the County installed a Compliance Officer, Letitia Dominici, who appears well-qualified for the position. The County used a highly transparent and objective process for recruiting and hiring the Compliance Officer, and the CA applauds its efforts.

With those changes, success in the County achieving substantial compliance has finally become possible, though much remains to be done.

- There is still not agreement on an Employment Plan for the UTP, though progress on that front has improved substantially since the new BHR Chief and her Deputy, Theresa Larkin, have come to the table. With a concerted effort by the County representatives and the Plaintiffs' counsel, a new Plan could be filed within weeks.
- A separate Employment Plan is being negotiated with CCHHS in order to address special concerns and unique employment situations found in a health care institution. A reticence by CCHHS representatives to embrace traditional governmental practices over private industry practices has slowed that effort, but the resistance appears to be dissolving and progress is being made.
- Adjustments to the County's Employment Plan must be developed for the Office of the Cook County Public Defender ("PD") and the Office of the Independent Inspector General ("OIIG"), both of which operate independently of UTP in some respects for purposes of hiring and other employment actions.
- Significant issues with the functioning of the online application tracking software

must be addressed. It has been difficult to determine which of the issues is the result of user error and which are problems related to the software. Since at least January of this year, the County and the vendor, Taleo, have been locked in a standoff on whether Taleo has any obligation to address some or all of these issues under its initial contract or is, instead, entitled to additional compensation to address them. Until the new BHR Chief was appointed, there was little apparent effort by the County to resolve the issues. Because they prevent the implementation of a transparent and objective hiring process, these problems must be resolved before substantial compliance can be achieved.

- Policies for other employment actions including transfers, promotions, discipline and discharge must still be developed and implemented.
- Managers, supervisors and rank and file employees need to be trained on the provisions of the Employment Plan and related policies.
- The parties must finalize an Exempt List, and lists of any other positions that, under the Employment Plans, can be filled through procedures outside the general hiring practices. For the County, that includes Senior Managers and Executive Assistants; for CCHHS (which has agreed to operate with no Exempts), that includes the CEO and other top management positions, Senior Managers, Executive Assistants, and Medical Professionals.
- The County must develop ongoing training for all employees on unlawful political discrimination and unlawful political contacts.
- CCHHS must fill its Compliance Officer position that was posted on August 23, 2011.
- The CA must monitor the implementation of the Employment Plans and other

policies as well as the activities of the Compliance Officers and the OIG for a sufficient period of time to ensure that a cultural shift has, in fact, occurred, that the policies for employment actions adopted by the County are actually effective, and that the County's responses to particular issues demonstrate a trustworthy and sustained commitment to addressing unlawful political discrimination and unlawful political contacts and remedying the impact of such unlawful conduct.

This report will summarize what has occurred since the last report was filed and address in more detail steps yet to be accomplished.

### **SUBSTANTIAL COMPLIANCE**

The SRO defines substantial compliance as:

1. The County has implemented the New Plan, including procedures to ensure compliance with the New Plan and identify instances of non-compliance;
2. The County has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;
3. The County does not have a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions;
4. The absence of material noncompliance which frustrates the 1994 Consent Decree and the SRO's essential purpose. The CA and the Court may consider the number of Post-SRO complaints . . . found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the County is not in substantial compliance; and
5. The County has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the County.

(SRO, III.E.8).

1. **The County has implemented the New Plan, including procedures to ensure compliance with the New Plan and identify instances of non-compliance.**

In order to achieve substantial compliance, the County must develop and create

transparent procedures for employment actions. Transparent procedures set expectations for applicants as well as County employees involved in the employment processes. In addition, such procedures allow the County to hold managers accountable. A professionalized BHR, an effective Compliance Officer, an approved Plan and employment procedures, and a functional online application system are necessary to ensure that the County has met this requirement for substantial compliance.

**A. The BHR**

Integral to a cultural change is the hiring and empowering of competent personnel to spearhead the endeavor. The BHR and, specifically, the Chief of the BHR, plays the central role in ensuring that the County is following transparent employment procedures and is not making employment decisions based on unlawful political considerations. The President accepted the resignation of the former BHR Chief in December 2010, and the BHR was left to function with an interim Chief until May 2011, when Maureen O'Donnell was appointed to the position. A number of Shakman-related projects limped along or went into limbo during that period, but Chief O'Donnell appears to be an ideal choice for the role and worth the wait. She has considerable experience in administering state agencies, which includes implementing procedures designed to eliminate unlawful political discrimination in state employment practices. She has also retained experienced senior staff to support her in these efforts. She has rigorous expectations of herself and her staff, and displays judgment and energy, qualities that will be necessary to build a capable and reliable human resources organization that will set the course for eliminating illegal political influence in employment actions.

**B. Compliance Officer**

In a process that was closely monitored by the CA, the County hired a Non-Exempt Compliance Officer who will report directly to the President and work closely with the BHR and the OIIG. The Compliance Officer will assist in implementing the Plan and procedures, be responsible for training to assure compliance with the Plan and procedures, monitor various employment actions to assure compliance with the Plan, and investigate and report on violations of the Plan and procedures. Particularly because BHR is not presently staffed to support all of those endeavors, the efficacy of the Compliance Officer's efforts will be critical in moving the County toward compliance.

**C. Development of the Plan and Procedures**

The County agreed to model its Employment Plan after a template created with input from various County governmental units, the Plaintiffs, and the Compliance Administrators for the governmental units. Adjustments to the template are being made because of structural or logistical differences unique to the UTP as compared to the other units of government for which the template has been used, and/or because additional provisions are needed to address UTP functions. At times, negotiations were terribly slow and the process became lost in minutia and in revisiting the same issues again and again. The input of the new BHR Chief and her Deputy – both professionals with significant human resources insight and the ones who will be instrumental in implementing the Plan – has been particularly helpful in moving the process along.

In addition to finalizing the Plan, the County must develop transparent procedures for other employment actions including, but not limited to, promotions, reclassifications, overtime, transfers, layoffs, recall, discipline and discharge. The procedures for these and

other employment actions are addressed to some extent in the County's Personnel Rules, but the County must bring those rules into conformity with the Employment Plan and, in several regards, develop more detailed and transparent procedures to ensure that political factors cannot and will not be considered in these employment actions and that clear expectations are set for managers, employees and applicants. The CA expects these additional procedures also will be finalized within the next few months. Once the Plan and procedures are finalized and implemented, the CA will monitor how employment actions are conducted, whether the procedures are followed and whether political reasons and factors are permitted for consideration.

A separate Employment Plan is being developed with CCHHS because the System operates independently of the President, under the authority of an Independent Board. CCHHS is also modeling its Plan after the template, but unique procedures for retaining top management and Medical Professionals are required. The Independent Board is committed to eliminating politics from all hiring decisions, including appointments to positions previously deemed Exempt, and procedures which offer considerable flexibility are warranted for appointments to the top tier of management. In addition, there are challenges and needs specific to hiring Medical Professionals which warrant special procedures. Those special needs, though, are not the cause for a slowed process; rather, the cause is disagreement over the extent to which private sector practices which CCHSHR representatives would like to write into the Plan can be made sufficiently rigorous to prevent unlawful political discrimination. Although not for political purposes, the CCHSHR representatives advocate for procedures which allow the kinds of subjectivity and individual discretion that have facilitated unlawful political discrimination.



After a series of productive discussions, progress is being made toward settling on procedures that will be sufficiently rigorous to avoid illegal political influence.

Once a Plan has been finalized, CCHHS must then harmonize its personnel rules with the Plan, and develop additional transparent procedures. The CA will then have to monitor implementation of the CCHHS Plan and procedures.

It is also critical that CCHHS improve consistency in implementing the hiring procedures to which it has agreed. There have been numerous instances where CCHHS online job postings have contained incorrect or conflicting information regarding required minimum qualifications. There has been debate about whether these errors were the result of the software system or the people charged with using it, and it appears that both may be the case. However, there have also been instances where candidates who did not have the minimum qualifications for a position were screened as eligible, interviewed and even hired, which had to have involved either intentional or negligent human error. The evidence does not suggest that these errors were politically-motivated, but any evasion of, or failure to follow, procedures designed to prevent illegal political hiring is cause for concern and will prolong the process of achieving substantial compliance. It is particularly important that the HR department be rigorous in enforcing the Plan and procedures, and not itself be involved in avoiding requirements. The CA informed CCHHS of these concerns on several occasions throughout the months prior to filing this report. Recently, at the CA's recommendation, the CCHHS employee in charge of the ATAS process for CCHHS agreed to meet with her counterparts in UTP to help prevent future user errors from occurring. The CA views this as a positive development but hopes that in the future CCHHS will be more proactive in identifying and fixing these issues to ensure the integrity of ATAS.

**D. Exempt List and Other Listings of Positions for Special Procedures**

Application of the provisions of the Employment Plan will depend upon whether specific positions are Exempt or Non-Exempt, and so implementation of the Plan will require finalization of a new Exempt List.

The bulk of the work on the new Exempt List has already been done. During the last few months of the Stroger administration, there was a flurry of politically-motivated hiring, primarily into allegedly Exempt positions, where political considerations are perfectly legitimate. Because of a multitude of unauthorized changes to the Exempt List over the span of about 14 years, however, it became extremely difficult to identify which positions were properly considered Exempt and which were not. In September 2010, the Plaintiffs' Counsel filed a Petition to Enforce Consent Decrees and 2007 Supplemental Relief Order, seeking to enjoin hiring into positions which were not on the Exempt List as last approved by the Court in 1996. After a considerable effort that absorbed extensive efforts and waylaid virtually all other efforts to advance progress toward substantial compliance, the CA, the County and the Plaintiffs agreed upon a list of positions which were traceable to the 1996 Exempt List, and agreed to modifications to conform the list with department reorganizations and changes in position titles that had occurred since 1996. The new Exempt List was approved in an agreed order entered November 10, 2010, just as the new administration was taking office. The order included a provision that employees hired as Exempt by a prior administration and placed in positions which were not on the modified Exempt list could be terminated for political reasons. This was done in order to avoid saddling the new administration with political hires of predecessors.

In the course of negotiating the Exempt List approved as of November 2010, the

parties agreed that several positions previously considered Exempt would be considered for treatment as Senior Manager and Executive Assistant positions. While not Exempt, there is more flexibility provided in the hiring procedures due to the nature of these positions. It has not yet been determined how a Senior Manager position will be defined, an issue upon which the CA and the County have been going in circles for some time. The County has yet to provide a proposed list of positions to be considered for Senior Manager status, despite a number of requests for such a list. The CA is also waiting for the County to provide a list of the specific positions that will fall within the Executive Assistant definition.

Although the 1996 Exempt List contained a number of Exempt positions for CCHHS, CCHHS has taken the position that no CCHHS personnel will be considered Shakman Exempt. Cook County Public Defender A.C. Cunningham has taken a similar position, as has IG Patrick Blanchard. CCHHS and the PD have indicated that they would like to propose more flexible hiring procedures for top tier executives. Moreover, all three of the offices wish to implement more flexible hiring practices for professional positions and Executive Assistants. In addition to developing the hiring procedures for these positions, each office must finalize lists of the positions which will be subject to those procedures. These lists will be tendered to the Plaintiffs once definitions and procedures for the more flexible hiring processes have been drafted.

**E. Applicant Tracking and Application System**

The SRO requires the County, with the input of the CA, to conduct a good faith analysis of the feasibility of creating an Application Tracking and Application System ("ATAS"). The County agreed to purchase and implement ATAS software from Taleo, which is also used by the City of Chicago. As of July 2010, the County abandoned the former paper

application system in favor of the ATAS from Taleo. It is hard to overstate the significance of that development. When the SRO was entered, jobs were posted only at the BHR office and the only way to apply for employment for positions within UTP or at CCHHS was to appear in person at the BHR during regular business hours and hand in a paper application. Now all jobs are posted on the County's website and applications may be submitted electronically at any time. Needless to say, the implementation of an ATAS has dramatically increased the pool of talent for County employment, breaking one of the most effective political strangleholds on access to County jobs.

In addition to expanding the pool of applicants, the use of an ATAS was intended to increase transparency in the County hiring processes and eliminate room for manipulation of hiring procedures. Practically, there are some significant issues with the use and functioning of the Taleo software thus far. With respect to Shakman concerns, these problems include, but are not limited to: (1) the inability to consistently include a No Political Consideration Certification on the ATAS for signature by applicants as well as employees involved in the hiring process (despite repeated assurances by Taleo representatives that that function could be implemented); (2) the inability to randomize eligibility lists; (3) the inability to sort applicants depending on whether they possess preferred qualifications for the position, a feature which was touted as one of Taleo's shining lights; and (4) difficulties in generating accurate job postings, disqualifying questions, and eligibility lists. In addition to the functional problems with Taleo, County and CCHHS employees charged with using Taleo have not been fully trained. The features of the software that would allow hiring managers to directly input requisitions and information about the interview process for specific positions are not yet being used,

primarily, it seems, because Taleo is challenging to use and the necessary County personnel require additional training on many of Taleo's features and functions.

Some issues appear to be working themselves out, as one might expect with new technology. Early problems with Taleo postings and disqualifying questions not matching position descriptions have eased in the postings being handled by the BHR, though those problems are still persistent in CCHHS postings, where considerably more hiring has occurred in the year since Taleo was installed. The greater volume of postings may account for a greater number of problems, but it should also become the path to eliminating the problems. There have been assertions that some of the issues are due to the faulty input of data by Taleo personnel. Unfortunately, CCHHS has not taken responsibility for checking and correcting the incorrect information before posting and has instead adopted a much more labor intensive and time consuming after-the-fact fix of the problems. The result – reposting, hand screening all applicants for every posting or accepting the loss of qualified candidates or inclusion on unqualified candidates – is obviously unacceptable.

Since at least January of this year, the County and the vendor, Taleo, have been locked in a standoff as to which is at fault and whether Taleo has any obligation to address the issues in the functioning of the software under its initial contract or is, instead, entitled to additional compensation to address them. Until the new BHR Chief was appointed, there was little or no apparent action by the County to attempt to resolve the issues. However it is accomplished, the Shakman-related failings in the ATAS must be fixed and the CA must monitor a functioning system for an adequate time period before she will be willing to support a motion to sunset the SRO.

**2. The County has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence.**

In addition to creating transparent employment procedures, the County must demonstrate that it has acted in good faith to remedy instances of non-compliance that have been identified and prevent a recurrence. The County's responses to findings and recommendations of the OIIG and the Post-SRO Complaint Administrator are central to showing good faith. In addition, supporting the use of the political contact log and the role of the OIIG in preventing and remedying non-compliance are critical.

**A. The OIIG**

**1. OIIG Reports and Recommendations**

The adoption of the OIIG ordinance and the expansion of the OIIG staff are major steps toward ensuring that instances of unlawful political discrimination will be remedied. Since its creation, the OIIG has been responsible for investigating complaints of unlawful political discrimination and unlawful political contacts. The OIIG has issued numerous reports to the County and the President detailing its investigations and has made recommendations for discipline in certain instances. Both Presidents Stroger and Preckwinkle, as well as CCHHS management have accepted the OIIG's findings and implemented the OIIG's recommendations in matters involving allegations of illegal political employment actions. Those recommendations have included terminating employees engaged in prohibited political activities. The only causes for concern were two instances where the disciplined employee pursued grievance procedures and Hearing Officers failed to notify the OIIG of the hearings and then reversed the discipline because of a lack of evidence. Both incidents occurred under the former administration, and the

County has indicated its intent to implement remedial procedures which would prevent a recurrence.

In addition to investigating and recommending discipline, the OIIG has made recommendations for training and for remedying procedural violations which will materially advance the goal of substantial compliance. The CA is satisfied with the investigations conducted by the OIIG and is generally encouraged by the new administration's responses to the OIIG's investigations.

## **2. OIIG Staffing**

In another positive move, this President has agreed to fund an expansion of the OIIG staff so that the OIIG will be poised to assume investigative and monitoring functions that have been handled by the CA. The new positions have been posted and some, if not all, have been filled. In addition to continuing to investigate complaints, the new OIIG investigators will also monitor employment actions and audit the various County departments to ensure that the Plan and procedures are being followed. The CA continues to meet monthly with the OIIG regarding pending OIIG investigations and monitoring and auditing activities of the CA's office.

## **3. The Political Contact Log**

Independent Inspector General Patrick Blanchard was personally instrumental in developing the procedures for recording political contacts involving employment matters, and in conjunction with the staff in UTP, and the CA, the OIIG has implemented them. Under the procedures, all employees in UTP are required to log all contacts from politically connected individuals, whether lawful or unlawful, regarding employment actions such as applications for employment, promotions, discipline and termination. The OIIG is charged

with the responsibility to investigate and determine whether the contact was lawful or not, and where unlawful, to take appropriate action.

It is especially noteworthy that the new President has agreed to require all employees, including herself, to log these contacts. The new President has notified all employees of this requirement by including an explanatory letter from the President, the OIG and the CA with employees' paychecks, and the OIG conducted training of all department heads and other managerial staff. All new employees also receive training on the contact log.

To date, the OIG has opened a number of investigations and has met with various public officials regarding such contacts. Requiring employment-related contacts from elected officials to be logged is an important step toward ridding the County of unlawful political discrimination and promoting accountability and transparency in the County's employment practices. Properly enforced, this is one of the strongest supports the County can give workers who are attempting to avoid or deflect unlawful political pressure.

**B. The Post-SRO Complaint Administrator and Post-SRO Complaints**

Another indicator of how the County has acted to remedy unlawful political discrimination and to prevent its recurrence is the County's response to the findings of the Post-SRO Complaint Administrator (the "Post-SRO CA"). To date, 93 individuals have filed post-SRO Complaints. The Post-SRO CA has issued 41 final decisions, sustaining four complaints of political discrimination (three of which arose out of the same hiring sequence). The four reports sustaining complaints were issued during the prior administration, which initially took an aggressively adversarial stance. One matter was finally settled, and the other three, which have been consolidated, remain pending.



The Post-SRO CA anticipates that a number of other reports will be issued in the near future. The CA has high hopes for a more conciliatory response by the County to any that involve sustained allegations.

Although the SRO anticipates that the Post-SRO CA will complete each investigation within 180 days of filing, the Post-SRO CA has experienced delays, some due to caseload volume, while other delays were due to a lack of cooperation by County supervisors and employees. Under the Stroger administration, despite the County's obligation to cooperate fully with the Post-SRO CA, the Post-SRO CA often had to subpoena County employees in order to obtain documents or information necessary to finalize the investigations. That difficulty has largely abated under the present administration, though there are individuals who continue to resist cooperation. The CA will have to monitor the County's responses to more Post-SRO Complaint Reports and be satisfied that the County is serious about preventing unlawful political discrimination prior to agreeing that the County has substantially complied with the SRO. The parties anticipate transitioning the investigation of future Post-SRO complaints to the OIG after the Employment Plan is filed.

**3. The County does not have a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions.**

Until recently, the major obstacle to progress in demonstrating that the County had abandoned policies, customs and practices of making employment decisions based on political factors was the BHR. Although the former administration went through the motions of appointing a nonpolitical Bureau Chief, the administration never gave him the independence or authority he needed to change the culture of the BHR. It was clear to all that a Deputy Chief had a direct line to the President and had the capacity to end-run the Chief whenever the administration determined it was worthwhile to do so. Exempt

employees in the BHR stood at the ready when manipulations of procedures were needed to implement political plans. In prior reports, the CA called for reorganizing and professionalizing the BHR as a critical step toward substantial compliance.

The current President immediately terminated the Deputy most notorious for evading prohibitions against illegal patronage activity, as well as other Exempt employees who had been instrumental in enabling illegal activity. More recently, the President appointed a Bureau Chief and a new Deputy who both appear to have quickly grasped the enormity of their challenge and who have begun the rebuilding necessary to make the BHR the hub of compliance, rather than the enabler of unlawful political employment practices. An important aspect of their work has been to impress upon all BHR employees the importance of following procedure to the letter, and, concomitantly, eliminating concerns by workers that their continued tenure might depend upon a willingness to evade procedure or look the other way while someone else does so. Under the current administration, the incidence of apparently intentional manipulations of hiring procedures has evaporated, and not once has BHR tried to hide behind a web of confusion or unexplained "human error" when a question arises about decisions in any particular case. The change is impressive and absolutely essential to accomplishing the goal of substantial compliance.

It is also important that the President has revamped and changed expectations in many other County departments, including ones that had come to be known to the CA's staff as those likely to be immersed in illegal political activity. Chief among those were the President's Office of Education and Training (known as "POET" and recently renamed "Cook County Works"), Environmental Control, and Highway Department. The President

has completely revamped POET, has recently replaced the Director of Environmental Control, and has made significant reductions in force and changes in leadership in the Highway Department. The CA views these actions as significant positive steps toward remedying historical non-compliance establishing a new culture within the County.

In addition, the new administration has been careful to follow court-ordered procedures for making modifications to UTP's Exempt List, thereby avoiding the gross confusion engendered by previous administrations that often made unauthorized changes. Furthermore, the President has directed BHR to develop measures to track Shakman compliance, a proactive step that speaks volumes about the County's present commitment. More recently, BHR demonstrated further initiative by sharing with the CA various in-progress documents including, inter alia, a detailed flow chart to help train employees on the hiring process outlined in the Employment Plan and various charts aimed at increasing the efficiency and effectiveness of Shakman and related trainings.

The CA would like to see additional proactive changes including finalizing the Plan, developing supplemental procedures, resolving the problems with the ATAS, instituting training on the Plan and supplemental employment procedures and responding responsibly and reasonably to Post-SRO and OIIG unlawful political discrimination investigation reports. The CA believes that many of these measures will be undertaken by BHR in the coming weeks and months and will report on the same in her next report.

4. **The absence of material noncompliance which frustrates the 1994 Consent Decree and the SRO's essential purpose. The CA and the Court may consider the number of post-SRO complaints . . . . found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the County is not in substantial compliance.**

Material noncompliance can be tracked through different measures. For the first

four years under the SRO, the CA's monitoring of hiring procedures (including postings, screening of candidates, interviewing, and selection) produced evidence of fairly regular and sometimes brazen noncompliance. Under the current administration, monitor reports of troubling irregularities have been rare, and for the most part, have not involved apparent political motivations.

Noncompliance can also appear through complaints brought to the OIIG and the Post-SRO Complaint Administrator. Based on the CA's understanding of matters currently under investigation by both offices, reports of alleged political discrimination seem to be on the wane. The County generally has responded to the OIIG recommendations in a positive manner. Where the OIIG has found evidence of unlawful political discrimination, the County has taken appropriate action to remedy the situation including disciplining and terminating offenders. The County, however, has been less conciliatory in responding to Post-SRO investigation reports.

It is noteworthy that of the 41 Post-SRO investigations completed, in only four of the cases were allegations of political discrimination sustained (three of which arose in the same hiring sequence). The Post-SRO CA focuses on whether an employee or applicant for County employment has been discriminated against. The process can result in remedial action and/or monetary damages. The Post-SRO complaint process exists to remediate the harm caused to the individuals who are often silent, unseen victims of illegal patronage practices, and the County's openness to that process is an important measure of its commitment.

**5. The County has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the County.**

The County must demonstrate that it has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment. These procedures include a transparent Plan, procedures for promotions, transfers, discipline, discharge and other employment actions, training employees on the Plan and procedures and ensuring that the online application tracking system is functional. While the CA and the County have discussed the development and implementation of these procedures at length, the CA has not yet seen any drafts of such procedures. The completion and the implementation of the procedures, as well as the monitoring by the CA, are integral to achieving substantial compliance and significant work remains. Furthermore, the County must demonstrate that it is willing to delegate sufficient responsibility and autonomy to its internal watchdog, the Compliance Officer.

**CONCLUSION**

The CA is encouraged by the cooperation of the new administration. The President's recurring message that the County will comply with the SRO and will work with the Plaintiffs and the CA to reach substantial compliance is refreshing. The County's willingness to provide the OIIG with the necessary resources to detect and deter unlawful political discrimination, the agreement to require all political contacts to be logged, the appointment of a committed BHR Chief and Deputy Chief, and the appointment of a Compliance Officer are substantial, positive steps toward compliance. In addition, the President's positive responses to recommendations from the OIIG show that the new administration is serious about remedying wrongs.

There is still much that needs to be accomplished prior to sunset. Finalizing a transparent Plan and procedures for the UTP and CCHHS, along with provisions for the PD and OIIG, finalizing an Exempt List and developing Executive Assistant, Senior Manager and any other lists for positions deserving of unique treatment, and instituting training on the Plan and procedures are crucial to ensuring that systems are in place to prevent unlawful political discrimination. The CA hopes that the County continues making Shakman issues a priority so that the parties can work together toward achieving the mutual goal of substantial compliance.

Respectfully Submitted,

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